



PUBLIC NOTICE

Federal Communications Commission
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DA 13-1342

Released: June 10, 2013

WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON REQUEST OF ASCEND PERFORMANCE MATERIALS FOR WAIVER OF SECTION 90.209(B) OF THE COMMISSION'S RULES TO PERMIT WIDEBAND OPERATION INDEFINITELY

WT Docket 99-87

Comment Date: July 10, 2013

Reply Comment Date: July 25, 2013

By this *Public Notice*, comment is sought on the request for waiver of Section 90.209(b) of the Commission's Rules filed by Ascend Performance Materials LLC (Ascend).¹ Section 90.209(b)(5) provides that, as of January 1, 2013, private land mobile radio stations in the 150-174 MHz and 421-512 MHz bands must operate on 12.5 kHz or narrower channels unless the operations meet the efficiency standards of Section 90.203(j)(3) of the Commission's Rules.² Ascend seeks a waiver for Station KD28206, Cantonment, Florida, because its 25 kHz equipment does not support the data rate of 4800 bits per second per 6.25 kHz of channel bandwidth set forth in Section 90.203(j)(3).³

Station KD28206 is authorized to operate with two watts effective radiated power on twenty 450-470 MHz band frequencies (mostly Group C low-power frequencies). Ascend uses the frequencies to operate approximately twelve radio-controlled Automated Guided Vehicles (AGVs) (wheel-based robotic transport vehicles that operate under computer control without the need for human drivers) at its manufacturing facility outside Pensacola, Florida. Ascend modified its license to add narrowband emission designators in August 2012,⁴ but later requested a six-month extension of the January 1, 2013 narrowbanding deadline to obtain additional time to convert the system to narrowband operation because the proprietary software was incompatible with narrowband channels.⁵ On December 18, 2012, the

¹ See Request for Rule Waiver (filed February 12, 2013) (Waiver Request).

² See 47 C.F.R. §90.209(b)(5) note 3. The January 1, 2013 deadline for converting to 12.5 kHz technology has been waived for licensees in the 470-512 MHz segment of the UHF band. See Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended, *Order*, WT Docket No. 99-87, 27 FCC Rcd 4213, *on recon.*, *Order on Reconsideration*, 27 FCC Rcd 14770 (WTB/PSHSB/OET 2012).

³ See 47 C.F.R. §90.203(j)(3).

⁴ See FCC File No. 0005357648.

⁵ See FCC File No. 0005551244.

Wireless Telecommunications Bureau's Mobility Division granted an extension of the narrowbanding deadline until June 30, 2013.⁶

Subsequently, Ascend requested an indefinite waiver of the narrowbanding deadline because it determined that its AGV system cannot reasonably be modified to comply with Section 90.209(b). Ascend states that modifying its AGV system to meet the narrowband-equivalent data efficiency standard would cost as much as \$400,000 and take the better part of a year, without benefiting other users because the system would continue to use 25 kHz channels.⁷ Ascend also argues that grant of a waiver is unlikely to harm other users because the equipment operates indoors with low power.

We seek comment on Ascend's waiver request. Commenters should address whether the public interest would be served by granting a waiver to allow Ascend continue for an unlimited period of time to operate on 25 kHz channels a low-power mobile-only system that does not support a minimum data rate of 4800 bits per second per 6.25 kHz of channel bandwidth. In particular, we seek comment from parties whose operations could be impacted by grant of the waiver.

Procedural Matters

Interested parties may file comments and reply comments in response to the waiver request on or before the dates listed on the first page of this *Public Notice*. All pleadings must reference WT Docket No. 99-87. Parties may file comments using (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies.⁸

- **Electronic Filers:** File comments electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.
- In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.
- **Paper Filers:** Parties who choose to file by paper must file an original and two copies of each filing.

Send filings by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). Address filings to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- Deliver hand-delivered or messenger-delivered paper filings to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554 between 8:00 AM and 7:00 PM. Use rubber bands or fasteners to hold deliveries together. Dispose of all envelopes before entering the building.
- Send commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) to 9300 East Hampton Drive, Capitol Heights, MD 20743.

⁶ We will permit Ascend to continue operating pursuant to the existing waiver during the pendency of the instant waiver request.

⁷ Waiver Request at 2.

⁸ See Electronic Filing of Documents in Rulemaking Proceedings, *Report and Order*, GC Docket No. 97-113, 13 FCC Rcd 11322 (1998).

- Send U.S. Postal Service first-class, Express, and Priority mail to 445 12th Street, SW, Washington DC 20554.

Parties are requested to send one copy of their comments and reply comments to Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (800) 378-3160, e-mail FCC@BCPIWEB.com.

The request, and comments and reply comments filed in response to this Public Notice are available for viewing via the Commission's Electronic Comment Filing System (ECFS), <http://www.fcc.gov/cgb/ecfs>, by entering the docket number, **WT 99-87**. The documents also will be available for public inspection and copying during business hours in the FCC Reference Information Center, Portals II, 445 12th Street S.W., Room CY-A257, Washington, D.C. 20554. They may also be purchased from Best Copy and Printing, Inc., telephone (800) 378-3160, facsimile (202) 488-5563, TTY (202) 488-5562, e-mail FCC@BCPIWEB.com.

Alternate formats of this *Public Notice* (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY), or send an e-mail to fcc504@fcc.gov.

This proceeding has been designated as a “permit-but-disclose” proceeding in accordance with the Commission's *ex parte* rules.⁹ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

For further information, contact Mr. Melvin Spann of the Wireless Telecommunications Bureau at (202) 418-1333, or via e-mail at Melvin.Spann@fcc.gov.

Action by the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau.

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⁹ See 47 C.F.R. §§ 1.1200(a), 1.1206.